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12 OCT 1964

MEMORANDUM FOR: Special Support Assistant to the DD/S

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SUBJECT: [REDACTED] - Reclaim of Disallowed Per Diem

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1. Pursuant to discussion of an earlier date with [REDACTED] of your staff, there is attached hereto documentation relative to the Subject reclaim of disallowed per diem.

2. Briefly stated, the facts of this case are these:

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[REDACTED]

child were hospitalized for some time over five days (a second child was hospitalized briefly on 6 June, dying on that same day). On 12 June, Subject was discharged from the hospital and returned to Headquarters from which he departed on 13 June for a period of sick leave through 7 July. Between the dates of 8 and 10 July Subject returned to duty and then resumed a sick leave status from 11-21 July returning finally to duty on 22 July 1963.

3. Following this accident Subject submitted a claim for compensation under the Federal Employee Compensation Act. This claim was denied on August 5th 1964, the denial being based on a determination that Subject was not in performance of duty when injured by virtue of the fact that he had

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-2-

25X1A

deviated from the usually traveled route between the official point of origin and his ultimate point of destination, that this deviation was for [REDACTED] personal reasons unassociated with the nature of his duties, and that such deviation continued through the period in which the injuries to Subject and his family occurred.

4. Subject's further Agency-internal claim for per diem for the period 6 June - 11 June was disallowed presumably because no per diem was to be allowed where Subject received any reimbursement during the period of Subject's hospitalization.

5. Addressing ourselves to the latter point for the moment, while it is true that no per diem may be paid where an employee receives hospitalization under any Federal statute or receive reimbursement under such statute for hospitalization expenses paid by him, Subject did not, in fact, receive any such compensation under such a statute. Further, it would appear from Comptroller General Decision B-143846, that the reimbursement for hospital expenses which Subject received under his Agency sponsored health plan did not act to preclude him from receiving per diem for the period of hospitalization as claimed.

6. With respect to the Bureau of Employee Compensation's denial of Subject's claim, it is our belief that some clarification of Subject's "duty status" at the time of the accident might be in order. While Subject's period of leave between 3 pm on 1 June and 10 am on June 6th 1963 might operate to deprive him of certain benefits of Federal Employee Compensation Act, the question arises as to whether he was not in fact in a duty status when at 10 am on the morning of 6 June he resumed his official travel enroute to his PCS point; such travel being in compliance with an official travel order, FE 1523-63 and Amendment #1 which authorized Subject's travel from Washington, D.C. to [REDACTED] and authorized as well travel by POA as more advantageous to the Government. It is our belief that Comptroller General Decision 151877 has some significance on this point.

25X1A

7. It is requested that your office review the attached claims and advise as to your concurrence or non-concurrence with our recommendation that per diem for the period in question be authorized. It would also be appreciated if the matter of Subject's BEC claim be reviewed to determine

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Approved For Release 2001/08/30 : CIA-RDP68-00140R000100060013-1

-3-

whether or not the possibility of future relief from this quarter might be possible, it being understood, of course, that if [REDACTED] were to receive any compensation under FECA a refund of any Agency-paid per diem would be in order.

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[REDACTED]  
Chief, Far East Division

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Distribution:

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(22 Oct 64 - Orig retained in SSA-DD/S Subj File;  
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